

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-CR-00172-RJC

USA

v.

CLIFTON NELSON

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for for a reduction of sentence based on the First Step Act of 2018. (Doc. No. 45).

The defendant pled guilty to possessing cocaine base with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) (Count One) and possessing a firearm as a felon, in violation of 18 U.S.C. § 922(g)(1) (Count Three). (Doc. No. 20: Plea Agreement at 1). A violation of § 841(b)(1)(C) is not a “covered offense” under the First Step Act. Pub. L. 115-135, § 404(a); Fair Sentencing Act of 2010, Pub. L. 111-220, § 2 (2010). Additionally, Section 404(c) of the First Step Act specifies that a court “shall not entertain” a reduction motion where the sentence was imposed in accordance with the Fair Sentencing Act of 2010. Here, the defendant was sentenced on February 28, 2014, (Doc. No. 29: Judgment at 1), well after the effective date of the Fair Sentencing Act. Therefore, he is not eligible for a sentence reduction under the First Step Act.

IT IS, THEREFORE, ORDERED that the defendant’s motion, (Doc. No. 45), is **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: June 27, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

